

Application No. 10/541,656
Response Dated February 25, 2008
Reply to Restriction Requirement Mailed January 24, 2008
Atty Docket No: 100954-1P US

Remarks/Arguments

Status of the Application

Claim 6 has been canceled; claims 7, 9-11, and 13-18 have been withdrawn; and claims 21-22 have been added so that claims 1-5, 8, 12, and 19-22 are pending.

Claim 21 finds support in the claims as originally filed.

Claim 22 finds support at page 42, lines 18-20; page 43, lines 20-22; and page 44, lines 12-14.

Any amendments made herein have been made without prejudice to Applicants' right to prosecute any cancelled subject matter in a timely filed continuation application.

No new matter has been added.

Restriction and Election of Species Requirement

The Office asserts that the "application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1." As a result, the Office further asserts that in "accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted." The groups set forth by the Office are as follows:

Group I: Claims 1-5, 8, 13, and 19-20, which are alleged to be "drawn to compounds and compositions" that if elected would necessitate "[f]urther election of a single disclosed species".

Group II: Claims 7, 9-10, and 14-18, which are alleged to be drawn to "methods of treating diseases" that if elected would necessitate "a further election of a single disclosed species useful in treating diseases and single disclosed species of disease".

Group III: Claim 11 and 12, which are alleged to be "drawn to methods of making compounds" that if elected would necessitate "a further election of a single disclosed species of Formula I and II".

Applicants elect to prosecute Group I and further elect as the single species the [3-[[4-[(diethylamino)carbonyl]phenyl][1-(phenylmethyl)-4-piperidinylidene]methyl]phenyl]-carbamic acid, methyl ester compound of Compound 3. Applicants point out that claim 13 has been erroneously included in Group I and claim 12 has erroneously been included in Group II. Indeed, as claim 13 is a process claim and claim 12 is a composition of matter claim, claim 12 not 13 should be included in Group I and claim 13 not 12 should be included in Group III. As a result, Applicants' election assumes elected Group I includes claims 1-5, 8, 12, and 19-20.

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Applicants note the Office "advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed ... and (ii) identification of the claims encompassing the elected invention."

The claims encompassing the elected invention are claims 1-5, 8, 12, and 19-22.

The claims encompassing the elected species are claims 1-5, 8, and 19-21

SUMMARY

In view of the foregoing amendments and remarks, Applicants respectfully submit the application is in condition for allowance and respectfully solicit a Notice of Allowance. In order to expedite disposition of this case, the Office is invited to contact Applicants' representative at the telephone number below to resolve any remaining issues. Although Applicants believe no fees are due, the Commissioner is hereby authorized to charge any deficiency in fees or credit any overpayment to deposit account No. 26-0166, referencing Attorney Docket No. 100954-1P US. The above amendments have been made without prejudice to Applicants right to prosecute any cancelled subject matter in a timely filed continuation application.

Respectfully submitted,

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